

AMENDED IN ASSEMBLY APRIL 16, 2009

CALIFORNIA LEGISLATURE—2009—10 REGULAR SESSION

ASSEMBLY BILL

No. 1465

Introduced by Assembly Member Hill

February 27, 2009

An act to amend Sections 10631, 10631.5, and 10633 of the Water Code, relating to water.

LEGISLATIVE COUNSEL'S DIGEST

AB 1465, as amended, Hill. Urban water management planning.

(1) Existing law requires every urban water supplier to prepare and adopt an urban water management plan, in accordance with specified requirements, for submission to the Department of Water Resources and other entities. An urban water supplier is required to provide information relating to the supplier's water demand management measures.

This bill would revise provisions relating to the information that the urban water supplier is required to include in the plan with regard to water demand management measures. The bill would require the urban water supplier to describe in the plan the opportunities for development of recycled water supplies, including opportunities for nonpotable and indirect potable reuse, and the opportunities for stormwater recapture and reuse as a long-term water supply.

(2) Existing law, with certain exceptions, requires the terms of, and eligibility for, a water management grant or loan, made to an urban water supplier and awarded or administered by the department, the State Water Resources Control Board, or the California Bay-Delta Authority or its successor agency, to be conditioned on the implementation of the

water demand management measures identified in the supplier's urban water management plan.

This bill would require the department to determine that an urban water supplier is eligible for a water management grant or loan, despite a failure to implement all of the water demand management measures identified in the urban water management plan, if the supplier submits to the department for approval documentation demonstrating that the supplier's proposed water demand management measures provide a level of water savings that is equivalent to the savings provided by the implementation of measures identified in the plan or that the supplier lacks the authority to implement one or more of those measures.

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: no.

The people of the State of California do enact as follows:

1 SECTION 1. Section 10631 of the Water Code is amended to
2 read:

3 10631. A plan shall be adopted in accordance with this chapter
4 and shall do all of the following:

5 (a) Describe the service area of the supplier, including current
6 and projected population, climate, and other demographic factors
7 affecting the supplier's water management planning. The projected
8 population estimates shall be based upon data from the state,
9 regional, or local service agency population projections within the
10 service area of the urban water supplier and shall be in five-year
11 increments to 20 years or as far as data is available.

12 (b) Identify and quantify, to the extent practicable, the existing
13 and planned sources of water available to the supplier over the
14 same five-year increments described in subdivision (a). If
15 groundwater is identified as an existing or planned source of water
16 available to the supplier, all of the following information shall be
17 included in the plan:

18 (1) A copy of any groundwater management plan adopted by
19 the urban water supplier, including plans adopted pursuant to Part
20 2.75 (commencing with Section 10750), or any other specific
21 authorization for groundwater management.

22 (2) A description of any groundwater basin or basins from which
23 the urban water supplier pumps groundwater. For those basins for
24 which a court or the board has adjudicated the rights to pump

1 groundwater, a copy of the order or decree adopted by the court
2 or the board and a description of the amount of groundwater the
3 urban water supplier has the legal right to pump under the order
4 or decree. For basins that have not been adjudicated, information
5 as to whether the department has identified the basin or basins as
6 overdrafted or has projected that the basin will become overdrafted
7 if present management conditions continue, in the most current
8 official departmental bulletin that characterizes the condition of
9 the groundwater basin, and a detailed description of the efforts
10 being undertaken by the urban water supplier to eliminate the
11 long-term overdraft condition.

12 (3) A detailed description and analysis of the location, amount,
13 and sufficiency of groundwater pumped by the urban water supplier
14 for the past five years. The description and analysis shall be based
15 on information that is reasonably available, including, but not
16 limited to, historic use records.

17 (4) A detailed description and analysis of the amount and
18 location of groundwater that is projected to be pumped by the
19 urban water supplier. The description and analysis shall be based
20 on information that is reasonably available, including, but not
21 limited to, historic use records.

22 (c) (1) Describe the reliability of the water supply and
23 vulnerability to seasonal or climatic shortage, to the extent
24 practicable, and provide data for each of the following:

25 (A) An average water year.

26 (B) A single dry water year.

27 (C) Multiple dry water years.

28 (2) For any water source that may not be available at a consistent
29 level of use, given specific legal, environmental, water quality, or
30 climatic factors, describe plans to supplement or replace that source
31 with alternative sources or water demand management measures,
32 to the extent practicable.

33 (d) Describe the opportunities for exchanges or transfers of
34 water on a short-term or long-term basis.

35 (e) (1) Quantify, to the extent records are available, past and
36 current water use, over the same five-year increments described
37 in subdivision (a), and projected water use, identifying the uses
38 among water use sectors, including, but not necessarily limited to,
39 all of the following uses:

40 (A) Single-family residential.

- 1 (B) Multifamily.
- 2 (C) Commercial.
- 3 (D) Industrial.
- 4 (E) Institutional and governmental.
- 5 (F) Landscape.
- 6 (G) Sales to other agencies.
- 7 (H) Saline water intrusion barriers, groundwater recharge, or
- 8 conjunctive use, or any combination thereof.
- 9 (I) Agricultural.

10 (2) The water use projections shall be in the same five-year
11 increments described in subdivision (a).

12 (f) Establish the goal of the urban water supplier for demand
13 management through implementation of the measures identified
14 in this subdivision, alternative equivalent demand management
15 measures, or an overall reduction in gallons per capita per day of
16 urban water use. The urban water supplier shall provide all of the
17 following:

18 (1) A description of each water demand management measure
19 that is currently being implemented, or scheduled for
20 implementation. Measures may include, but are not limited to, the
21 following:

22 (A) Utility operations programs, including programs relating
23 to conservation coordination, water waste prevention, wholesale
24 agency assistance, pricing, metering, and water loss control.

25 (B) Education and information programs, including programs
26 relating to school education and public information.

27 (C) Residential programs, including programs relating to
28 residential assistance, landscape water surveys, high efficiency
29 clothes washer incentives, ordinances, and low-flow toilet
30 incentives.

31 (D) Commercial, institutional, and industrial programs, including
32 programs relating to device-based incentives, audits, and process
33 improvement incentives.

34 (E) Landscape programs, including programs relating to water
35 budgets, water use surveys, and financial incentives.

36 (2) A schedule of implementation for all water demand
37 management measures proposed or described in the plan.

38 (3) An estimate of the water savings or reduction in gallons per
39 capita per day of urban water use that will be achieved through
40 implementation of the proposed demand management measures.

1 (4) A description of the methods, if any, that the supplier will
2 use to evaluate the effectiveness of water demand management
3 measures implemented or described in the plan.

4 (g) Evaluate any alternative demand management measures
5 being implemented by the supplier to provide a level of water
6 savings that is equivalent to the savings provided by
7 implementation of the water demand management measures listed
8 in paragraph (1) of subdivision (f).

9 (h) Evaluate each water demand management measure listed in
10 paragraph (1) of subdivision (f) that is not currently being
11 implemented or scheduled for implementation due to lack of legal
12 authority or lack of cost effectiveness.

13 (i) Include a description of all water supply projects and water
14 supply programs that may be undertaken by the urban water
15 supplier to meet the total projected water use as established
16 pursuant to subdivision (a) of Section 10635. The urban water
17 supplier shall include a detailed description of expected future
18 projects and programs, other than the demand management
19 programs identified pursuant to paragraph (1) of subdivision (f),
20 that the urban water supplier may implement to increase the amount
21 of the water supply available to the urban water supplier in average,
22 single-dry, and multiple-dry water years. The description shall
23 identify specific projects and include a description of the increase
24 in water supply that is expected to be available from each project.
25 The description shall include an estimate with regard to the
26 implementation timeline for each project or program.

27 (j) Describe the opportunities for development of desalinated
28 water, including, but not limited to, ocean water, brackish water,
29 and groundwater, as a long-term supply.

30 (k) Describe the opportunities for development of recycled water
31 supplies, including opportunities for nonpotable and indirect
32 potable reuse as a long-term water supply.

33 (l) Describe the opportunities for stormwater capture and reuse
34 as a long-term water supply.

35 (m) Urban water suppliers that are members of the California
36 Urban Water Conservation Council and submit annual reports to
37 that council in accordance with the "Memorandum of
38 Understanding Regarding Urban Water Conservation in
39 California," dated December 2008, may submit the annual reports
40 identifying water demand management measures currently being

1 implemented, or scheduled for implementation, to satisfy the
2 requirements of subdivisions (f), (g), and (h).

3 (n) Urban water suppliers that rely upon a wholesale agency for
4 a source of water shall provide the wholesale agency with water
5 use projections from that agency for that source of water in
6 five-year increments to 20 years or as far as data is available. The
7 wholesale agency shall provide information to the urban water
8 supplier for inclusion in the urban water supplier's plan that
9 identifies and quantifies, to the extent practicable, the existing and
10 planned sources of water as required by subdivision (b), available
11 from the wholesale agency to the urban water supplier over the
12 same five-year increments, and during various water-year types
13 in accordance with subdivision (c). An urban water supplier may
14 rely upon water supply information provided by the wholesale
15 agency in fulfilling the plan informational requirements of
16 subdivisions (b) and (c).

17 SEC. 2. Section 10631.5 of the Water Code is amended to read:

18 ~~10631.5. (a) (1) Beginning January 1, 2009, the terms of, and~~
19 ~~eligibility for, a water management grant or loan made to an urban~~
20 ~~water supplier and awarded or administered by the department,~~
21 ~~state board, or California Bay-Delta Authority or its successor~~
22 ~~agency shall be conditioned on the implementation of the water~~
23 ~~demand management measures described in Section 10631, as~~
24 ~~determined by the department pursuant to subdivision (b).~~

25 ~~(2) For the purposes of this section, water management grants~~
26 ~~and loans include funding for programs and projects for surface~~
27 ~~water or groundwater storage, recycling, desalination, water~~
28 ~~conservation, water supply reliability, and water supply~~
29 ~~augmentation. This funding includes, but is not limited to, funds~~
30 ~~made available pursuant to Section 75026 of the Public Resources~~
31 ~~Code.~~

32 ~~(3) Notwithstanding paragraph (1), the department shall~~
33 ~~determine that an urban water supplier is eligible for a water~~
34 ~~management grant or loan even though the supplier is not~~
35 ~~implementing all of the water demand management measures~~
36 ~~described in Section 10631, if the urban water supplier has~~
37 ~~submitted to the department for approval a schedule, financing~~
38 ~~plan, and budget, to be included in the grant or loan agreement,~~
39 ~~for implementation of the water demand management measures.~~
40 ~~The supplier may request grant or loan funds to implement the~~

1 water demand management measures to the extent the request is
2 consistent with the eligibility requirements applicable to the water
3 management funds.

4 (4) (A) Notwithstanding paragraph (1), the department shall
5 determine that an urban water supplier is eligible for a water
6 management grant or loan even though the supplier is not
7 implementing all of the water demand management measures
8 described in Section 10631, if an urban water supplier submits to
9 the department for approval documentation demonstrating that the
10 supplier's proposed water demand management measures provide
11 a level of water savings that is equivalent to the savings provided
12 by the implementation of the water demand management measures
13 listed in Section 10631, that a water demand management measure
14 is not cost effective, or that the supplier lacks the authority to
15 implement one or more of those water demand management
16 measures. If the department determines that the documentation
17 submitted by the urban water supplier fails to meet these criteria,
18 the department shall notify the urban water supplier and the agency
19 administering the grant or loan program within 120 days that the
20 documentation does not satisfy the requirements for an exemption,
21 and include in that notification a detailed statement to support the
22 determination.

23 (B) For purposes of this paragraph, "not locally cost effective"
24 means that the present value of the local benefits of implementing
25 a water demand management measure is less than the present value
26 of the local costs of implementing that measure.

27 (b) (1) The department, in consultation with the state board and
28 the California Bay-Delta Authority or its successor agency, and
29 after soliciting public comment regarding eligibility requirements,
30 shall develop eligibility requirements to implement the requirement
31 of paragraph (1) of subdivision (a). In establishing these eligibility
32 requirements, the department shall do both of the following:

33 (A) Consider the conservation measures described in the
34 Memorandum of Understanding Regarding Urban Water
35 Conservation in California, and alternative conservation approaches
36 that provide equal or greater water savings.

37 (B) Recognize the different legal, technical, fiscal, and practical
38 roles and responsibilities of wholesale water suppliers and retail
39 water suppliers.

~~(2) (A) For the purposes of this section, the department shall determine whether an urban water supplier is implementing all of the water demand management measures described in Section 10631 based on either, or a combination, of the following:~~

~~(i) Compliance on an individual basis.~~

~~(ii) Compliance on a regional basis. Regional compliance shall require participation in a regional conservation program consisting of two or more urban water suppliers that achieves the level of conservation or water efficiency savings equivalent to the amount of conservation or savings achieved if each of the participating urban water suppliers implemented the water demand management measures. The urban water supplier administering the regional program shall provide participating urban water suppliers and the department with data to demonstrate that the regional program is consistent with this clause. The department shall review the data to determine whether the urban water suppliers in the regional program are meeting the eligibility requirements.~~

~~(B) The department may require additional information for any determination pursuant to this section.~~

~~(3) The department shall not deny eligibility to an urban water supplier in compliance with the requirements of this section that is participating in a multiagency water project, or an integrated regional water management plan, developed pursuant to Section 75026 of the Public Resources Code, solely on the basis that one or more of the agencies participating in the project or plan is not implementing all of the water demand management measures described in Section 10631.~~

~~(c) In establishing guidelines pursuant to the specific funding authorization for any water management grant or loan program subject to this section, the agency administering the grant or loan program shall include in the guidelines the eligibility requirements developed by the department pursuant to subdivision (b).~~

~~(d) Upon receipt of a water management grant or loan application by an agency administering a grant and loan program subject to this section, the agency shall request an eligibility determination from the department with respect to the requirements of this section. The department shall respond to the request within 60 days of the request.~~

~~(e) The urban water supplier may submit to the department copies of its annual reports and other relevant documents to assist~~

1 the department in determining whether the urban water supplier
2 is implementing or scheduling the implementation of water demand
3 management activities. In addition, for urban water suppliers that
4 are signatories to the Memorandum of Understanding Regarding
5 Urban Water Conservation in California and submit biennial reports
6 to the California Urban Water Conservation Council in accordance
7 with the memorandum, the department may use these reports to
8 assist in tracking the implementation of water demand management
9 measures.

10 *SEC. 2. Section 10631.5 of the Water Code is amended to read:*

11 10631.5. (a) (1) Beginning January 1, 2009, the terms of, and
12 eligibility for, a water management grant or loan made to an urban
13 water supplier and awarded or administered by the department,
14 state board, or California Bay-Delta Authority or its successor
15 agency shall be conditioned on the implementation of the water
16 demand management measures described in Section 10631, as
17 determined by the department pursuant to subdivision (b).

18 (2) For the purposes of this section, water management grants
19 and loans include funding for programs and projects for surface
20 water or groundwater storage, recycling, desalination, water
21 conservation, water supply reliability, and water supply
22 augmentation. This section does not apply to water management
23 projects funded by the American Recovery and Reinvestment Act
24 of 2009 (Public Law 111-5).

25 (3) Notwithstanding paragraph (1), the department shall
26 determine that an urban water supplier is eligible for a water
27 management grant or loan even though the supplier is not
28 implementing all of the water demand management measures
29 described in Section 10631, if the urban water supplier has
30 submitted to the department for approval a schedule, financing
31 plan, and budget, to be included in the grant or loan agreement,
32 for implementation of the water demand management measures.
33 The supplier may request grant or loan funds to implement the
34 water demand management measures to the extent the request is
35 consistent with the eligibility requirements applicable to the water
36 management funds.

37 (4) (A) Notwithstanding paragraph (1), the department shall
38 determine that an urban water supplier is eligible for a water
39 management grant or loan even though the supplier is not
40 implementing all of the water demand management measures

described in Section 10631, if an urban water supplier submits to the department for approval documentation demonstrating that a water demand management measure is not locally cost effective. If the department determines that the documentation submitted by the urban water supplier fails to demonstrate that a water demand management measure is not locally cost effective *the supplier's proposed water demand management measures provide a level of water savings that is equivalent to the savings provided by the implementation of the water demand management measures listed in Section 10631, that a water demand management measure is not cost effective, or that the supplier lacks the authority to implement one or more of those water demand management measures. If the department determines that the documentation submitted by the urban water supplier fails to meet these criteria,* the department shall notify the urban water supplier and the agency administering the grant or loan program within 120 days that the documentation does not satisfy the requirements for an exemption, and include in that notification a detailed statement to support the determination.

(B) For purposes of this paragraph, “not locally cost effective” means that the present value of the local benefits of implementing a water demand management measure is less than the present value of the local costs of implementing that measure.

(b) (1) The department, in consultation with the state board and the California Bay-Delta Authority or its successor agency, and after soliciting public comment regarding eligibility requirements, shall develop eligibility requirements to implement the requirement of paragraph (1) of subdivision (a). In establishing these eligibility requirements, the department shall do both of the following:

(A) Consider the conservation measures described in the Memorandum of Understanding Regarding Urban Water Conservation in California, and alternative conservation approaches that provide equal or greater water savings.

(B) Recognize the different legal, technical, fiscal, and practical roles and responsibilities of wholesale water suppliers and retail water suppliers.

(2) (A) For the purposes of this section, the department shall determine whether an urban water supplier is implementing all of the water demand management measures described in Section 10631 based on either, or a combination, of the following:

1 (i) Compliance on an individual basis.

2 (ii) Compliance on a regional basis. Regional compliance shall
3 require participation in a regional conservation program consisting
4 of two or more urban water suppliers that achieves the level of
5 conservation or water efficiency savings equivalent to the amount
6 of conservation or savings achieved if each of the participating
7 urban water suppliers implemented the water demand management
8 measures. The urban water supplier administering the regional
9 program shall provide participating urban water suppliers and the
10 department with data to demonstrate that the regional program is
11 consistent with this clause. The department shall review the data
12 to determine whether the urban water suppliers in the regional
13 program are meeting the eligibility requirements.

14 (B) The department may require additional information for any
15 determination pursuant to this section.

16 (3) The department shall not deny eligibility to an urban water
17 supplier in compliance with the requirements of this section that
18 is participating in a multiagency water project, or an integrated
19 regional water management plan, developed pursuant to Section
20 75026 of the Public Resources Code, solely on the basis that one
21 or more of the agencies participating in the project or plan is not
22 implementing all of the water demand management measures
23 described in Section 10631.

24 (c) In establishing guidelines pursuant to the specific funding
25 authorization for any water management grant or loan program
26 subject to this section, the agency administering the grant or loan
27 program shall include in the guidelines the eligibility requirements
28 developed by the department pursuant to subdivision (b).

29 (d) Upon receipt of a water management grant or loan
30 application by an agency administering a grant and loan program
31 subject to this section, the agency shall request an eligibility
32 determination from the department with respect to the requirements
33 of this section. The department shall respond to the request within
34 60 days of the request.

35 (e) The urban water supplier may submit to the department
36 copies of its annual reports and other relevant documents to assist
37 the department in determining whether the urban water supplier
38 is implementing or scheduling the implementation of water demand
39 management activities. In addition, for urban water suppliers that
40 are signatories to the Memorandum of Understanding Regarding

1 Urban Water Conservation in California and submit biennial reports
2 to the California Urban Water Conservation Council in accordance
3 with the memorandum, the department may use these reports to
4 assist in tracking the implementation of water demand management
5 measures.

6 SEC. 3. Section 10633 of the Water Code is amended to read:

7 10633. The plan shall provide, to the extent available,
8 information on recycled water and its potential for use as a water
9 source in the service area of the urban water supplier. The
10 preparation of the plan shall be coordinated with local water,
11 wastewater, groundwater, and planning agencies that operate within
12 the supplier's service area, and shall include all of the following:

13 (a) A description of the wastewater collection and treatment
14 systems in the supplier's service area, including a quantification
15 of the amount of wastewater collected and treated and the methods
16 of wastewater disposal.

17 (b) A description of the quantity of treated wastewater that meets
18 recycled water standards, is being discharged, and is otherwise
19 available for use in a recycled water project.

20 (c) A description of the recycled water currently being used in
21 the supplier's service area, including, but not limited to, the type,
22 place, and quantity of use.

23 (d) A description and quantification of the potential uses of
24 recycled water, including, but not limited to, agricultural irrigation,
25 landscape irrigation, wildlife habitat enhancement, wetlands,
26 industrial reuse, indirect potable reuse, and other appropriate uses,
27 and a determination with regard to the technical and economic
28 feasibility of serving those uses.

29 (e) The projected use of recycled water within the supplier's
30 service area at the end of 5, 10, 15, and 20 years, and a description
31 of the actual use of recycled water in comparison to uses previously
32 projected pursuant to this subdivision.

33 (f) A description of actions, including financial incentives, which
34 may be taken to encourage the use of recycled water, and the
35 projected results of these actions in terms of acre-feet of recycled
36 water used per year.

37 (g) A plan for optimizing the use of recycled water in the
38 supplier's service area, including actions to facilitate the installation
39 of dual distribution systems, to promote recirculating uses, to
40 facilitate the increased use of treated wastewater that meets

- 1 recycled water standards, and to overcome any obstacles to
- 2 achieving that increased use.

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